84TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 2401

# AMENDING THE UNIVERSAL MILITARY TRAINING AND SERVICE ACT TO AUTHORIZE JURISDICTION IN THE FEDERAL COURTS IN CERTAIN REEMPLOYMENT CASES

JUNE 20, 1956.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

Mr. KILDAY, from the Committee on Armed Services, submitted the following

## REPORT

[To accompany S. 3307]

The Committee on Armed Services, to whom was referred the bill (S. 3307) to amend section 9 (d) of the Universal Military Training and Service Act to authorize jurisdiction in the Federal courts in certain reemployment cases, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The purpose of S. 3307 is to amend that portion of section 9 of the Universal Military Training and Service Act which deals with reemployment rights.

A recent decision of the Federal District Court of Colorado held that the court was without jurisdiction to enforce the leaves of absence rights that training duty reservists are presumed to have under paragraph 3 of section 9 (g) of the present law since it does not specifically afford the right of having the reemployment provisions enforced in a United States court nor does it state that the persons covered will have all of the reemployment rights and benefits provided by section 9. Paragraphs (1) and (2) of subsection 9 (g), applicable to enlistees and active duty reservists, contain the language "be entitled to all of the reemployment rights and benefits provided by this section." Subsection 9 (g) (3), applicable to reservists entering on training duty, does not contain similar language. The benefits intended can be provided by amending subsection 9 (d). Thus the proposed legislation, if enacted, would make clear that the reemployment and leave of absence rights conferred by section 9 (g) of the Universal Military Training and Service Act are enforceable in the Federal courts, effective as of June 19, 1951.

The American Legion and AMVETS strongly endorse enactment of the proposed legislation.

The Department of Labor and the Department of Defense favor enactment of this legislation as indicated by the following letters hereby made a part of this report.

DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
*Washington, March 28, 1956.*

Hon. CARL VINSON,
*Chairman, Committee on Armed Services,*
*House of Representatives,*
*Washington 25, D. C.*

DEAR CONGRESSMAN VINSON: This is with further reference to your request for my comments on H. R. 9618, a bill to amend and clarify section 9 (d) of the Universal Military Training and Service Act to confirm jurisdiction in the Federal courts to enforce section 9 (g) (3).

The Universal Military Training and Service Act provides that employees covered by section 9 (g) (3) of the act (in the main, reservists called for training duty only) shall be granted a leave of absence by their employers for the purpose of being inducted into, entering, determining physical fitness to enter or performing training duty in the Armed Forces. Upon their release from training duty or rejection, and after making proper application, these employees are entitled to be reinstated in their positions.

The existence of a clearly recognized remedy in the Federal courts under reemployment legislation is of vital importance in minimizing litigation and facilitating the administration and enforcement of this phase of the act. There is no question as to the availability of this remedy with respect to reemployment rights under section 9 (g) (1) and section 9 (g) (2) of the act, concerning inductees, enlistees and reservists on active duty. However, a recent decision of the Federal District Court for the District of Colorado in the case of *Christner* v. *Poudre Valley Cooperative* (134 F. Supp. 115), held that the court is without jurisdiction to enforce section 9 (g) (3). An appeal from this decision is presently pending. Until this matter is finally resolved by the courts, however, reservists and rejectees covered by section 9 (g) (3) may, in many instances, find reemployment delayed or denied.

H. R. 9618 would clarify and confirm the jurisdiction of the Federal courts to enforce the reemployment rights granted by section 9 (g) (3). It would prevent hardship to trainees and rejectees who may be denied rights because of the Christner decision and would, in addition, guide employers who might incur liability through following that decision. Accordingly, I strongly urge its enactment.

The Bureau of the Budget advises that it has no objection to the submission of this report.

Sincerely yours,

JAMES P. MITCHELL,
*Secretary of Labor.*

DEPARTMENT OF THE ARMY,
*Washington, D. C., May 29, 1956.*

Hon. CARL VINSON,
*Chairman, Committee on Armed Services,*
*House of Representatives.*

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense with respect to H. R. 9618, 84th Congress, a bill to amend and clarify section 9 (d) of the Universal Military Training and Service Act to confirm jurisdiction in the Federal courts to enforce section 9 (g) (3).

The purpose of the bill is to amend section 9 (d) of the Universal Military Training and Service Act (62 Stat. 616), as amended (50 U. S. C. App. 459 (d)), to clarify and confirm jurisdiction in the Federal courts to enforce reemployment rights granted by section 9 (g) (3) of the Universal Military Training and Service Act (62 Stat. 617), as amended (50 U. S. C. App. 459 (g) (3)), to certain employees who are relieved from duty or who have been rejected for military service.

On July 13, 1955, the Federal District Court for the District of Colorado decided, in *Christner* v. *Poudre Valley Corp.* (134 F. Supp. 115) that the court lacked jurisdiction to enforce section 9 (g) (3) of the cited act. This decision was based on the premise that jurisdiction conferred in section 9 (d) is not sufficiently broad to cover the rights conferred in section 9 (g) (3), and that section 9 (g) (3) does not confer jurisdiction upon the Federal courts to enforce the rights granted by that section. Although it is understood that this decision is now being appealed, it appears that, with some exceptions, employees covered by section 9 (g) (3) may be without enforceable rights until this defect is remedied by legislation.

In view of the foregoing, the Department of the Army on behalf of the Department of Defense recommends that the bill be favorably considered.

The enactment of this legislation will cause no apparent increase in the budgetary requirements for the Department of Defense.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Bureau of the Budget advises that there is no objection to the submission of this legislation to the Congress.

Sincerely yours,

WILBER M. BRUCKER,
*Secretary of the Army.*

In compliance with clause 3, of rule XIII of the Rules of the House of Representatives, there is printed herewith in roman type existing law in which no change is proposed; existing law proposed to be omitted is enclosed in black brackets, and new matter is printed in italics:

## THE UNIVERSAL MILITARY TRAINING AND SERVICE ACT

REEMPLOYMENT

SEC. 9. * * *

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(d) In case any private employer fails or refuses to comply with the provisions of subsection (b) [or] subsection (c) (1)[,] *or subsection (g)* the district court of the United States for the district in which such private employer maintains a place of business shall have power, upon the filing of a motion, petition, or other appropriate pleading by the person entitled to the benefits of such provisions, specifically to require such employer to comply with such provisions and to compensate such person for any loss of wages or benefits suffered by reason of such employer's unlawful action: *Provided*, That any such compensation shall be in addition to and shall not be deemed to diminish any of the benefits of such provisions. The court shall order speedy hearing in any such case and shall advance it on the calendar. Upon application to the United States district attorney or comparable official for the district in which such private employer maintains a place of business, by any person claiming to be entitled to the benefits of such provisions, such United States district attorney or official, if reasonably satisfied that the person so applying is entitled to such benefits, shall appear and act as attorney for such person in the amicable adjustment of the claim or in the filing of any motion, petition, or other appropriate pleading and the prosecution thereof specifically to require such employer to comply with such provisions: *Provided*, That no fees or court costs shall be taxed against any person who may apply for such benefits: *Provided further*, That only the employer shall be deemed a necessary party respondent to any such action.

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